

IN THE UNITED STATES DISTRICT
COURT FOR THE MIDDLE DISTRICT
OF ALABAMA NOV -T A 9:37

Barrett Gaines
Petitioner

v.

Brenda Lynn Marshall

Cause No. —
2:05cv1052-T

Memoandum

Comes now, Barrett Gaines, Petitioner, in the above cause, to file a motion for relief in this Honorable Court.

Statement of Facts

On February 14, 2003, Petitioner was involved in a fight with another inmate. It was discovered and he was arrested by Officer Alan Griffith. But he was not served a charges until March 7th, 2003.

A clear violation of his Constitutional Due Process. He was found guilty on March 15, 2003. It was approved by Warden Jones that he was

2 years Good-time, and 45 days
loss of all Good-times. Petitioner
filed a Habeas Corpus with
Barbosa County Circuit Court
and it was Dismissed June 2,
2005. He appealed to Court of
Criminal Appeals and it
was affirmed October 21, 2005.

law

I. The Respondents violated
Petitioner's Due Process when
they failed to serve him a
charge in ten (10) calendar
days as stipulated by
ADMINISTRATION REGULATION

405 Section III

A. "THE ARREST should be made
within 10(ten) calendar days
after the violation is reported,
discovered,

B. "THE CHARGE should be served
within ten(10) calendar days
after the inmate is arrested or
charged.

Regulation 403 II Amend

Contains mandatory language
therefore the Deliberatory Charge
should have been issued after
it was not served in totto
Calendar Days. (Dace v. Michel-
son, 797 F.2d 576 (8th Cir. 1986))

Similarly, the Seventh Circuit
has held that a litigant's interest
may be created by institutional
policies. In this case Petitioner's
Due Process was violated, when
DOJ failed to recognize its
own regulations and guidelines
(Parker v. Corrothers, 150 F.2d 1053)

Conclusion

If Respondents violated Petitioner's
procedural Due Process, therefore
his Bondtime should be declared
and all Court costs be paid by
Respondents.

(3)

Done THIS 24th Day of December 2005

Garrett Barnes

Garrett Barnes
Paralegal

200 WANDCE DR.
(150,21,36017)

(4)